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H. Scotland, Landholders of

M. Smith
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[PRINTED BY ORDER OF THE COUNTY OF EDINBURGH.]

[By the Committee appointed by the General Meeting of the Landholders
of Scotland.]

HEADS OF A BILL



CORRECTING CERTAIN ABUSES

WITH RESPECT TO THE

QUALIFICATION of FREEHOLDERS in that part of Great Britain called SCOTLAND.

WHEREAS the privilege of being enrolled in the roll of Freeholders, and of voting in the elections of Members to serve in Parliament, for the several Shires and Stewartries of Scotland, given by an Act of the Parliament of Scotland made in the year 1681 (entituled, "An Act concerning the election of Commissioners for Shires"), to proper wadsetters and liferenters of land holden of the King or Prince, and of the extent and valuation therein specified, has of late years been much abused. AND WHEREAS the regulations made by divers other statutes against the undue creation of votes have been evaded, and proprietors of large estates have found means to raise up a variety of nominal or occasional qualifications upon their said estates, by artful devices, and particularly by granting feu-rights to trustees, in order to separate the property from the superiority of their lands, or by taking reconveyances of

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the property, and, in either case, parcelling out the superiority by conveyances to confidential persons, merely for the purpose of giving them pretended qualifications to vote, when no real or fair alienation for any other purpose is truly meant; which devices are contrary to the spirit and intendment of the laws now in being, for regulating the elections of Members to serve for the Commons in Parliament, in that part of Great Britain called Scotland.

2. AND WHEREAS that species of land-right in Scotland called a proper wadset, has for many years been in disuse, except for the purpose of unduly creating votes; and, in the case of liferents, a less valuable or substantial interest is, for the most part, considered to be in the liferenter than in the fiar: AND WHEREAS all devices, whereby qualifications for voting are unduly created, ought to be discouraged and declared illegal.

3. BE IT THEREFORE ENACTED, That so much of the foresaid Act of the Parliament of Scotland in the year 1681, as gives a right of voting to proper wadsetters and to liferenters, shall be, and the same is hereby, repealed.

4. AND BE IT ENACTED, That no person shall have right to be inrolled in the roll of Freeholders of any Shire or Stewartry, or to vote in the election of a Member to serve in Parliament for Scotland, upon the title of a proper wadset of lands, or upon the title of a liferent right of lands; without prejudice, however, to the fiars right of voting in respect of the lands liferented, which is hereby reserved entire.

5. PROVIDED ALWAYS, That where a father disposes his estate to his eldest or only son, reserving his own liferent, the father himself may vote upon this reserved liferent, while the estate remains

mains with the son or his heirs, if it be otherwise a sufficient qualification; and the fiar shall, in that case, only be entitled to vote in the liferenter's absence.

6. PROVIDED ALSO, That husbands, for the freeholds of their wives, or right by the courtesy, shall be entitled to vote as formerly; any thing herein to the contrary notwithstanding.

7. AND BE IT ENACTED, That in all cases where property has been, or shall be, separated from superiority, by means of feuing out the lands to a trustee or trustees for the granter, or his heirs, or by obtaining reconveyances of the property in favour of the granter or his heirs, or in trust for him or them; and the superiority thus separated has been, or shall be, reserved or conveyed for the purpose of making votes, or where conveyances have been, or shall be, granted under any condition or obligation to separate or reconvey the property, such rights of voting shall not be sustained as legal, although granted or reserved in absolute fee; excepting only where a qualification is given in that manner to the granter's eldest son and apparent heir, who alone, and the heirs of his body, shall be entitled to such a qualification.

8. AND WHEREAS qualifications created by conveying entailed lands, to others than those entitled to possess under such entails, are at any time defeasible at the instance of any substitute heir of the entail: BE IT THEREFORE ENACTED, That in all cases where lands included in any entail, containing prohibitory, irritant, and resolute clauses, have been, or shall be, conveyed to any person, other than the heir, who is for the time entitled to such lands, or capable of holding them in terms of the destination of such entails, such right shall not be sustained as a legal qualification, even where the conveyance is granted in absolute fee.

9. AND

9. AND WHEREAS it is necessary, for preserving equality, and supporting freedom and independency in elections, and for the more effectually carrying the good intentions of this act into execution, That all persons who have been inrolled in the roll of freeholders of any county or stewartry in Scotland upon the title of a proper wadset, or upon the title of a liferent-right to lands (excepting the rights of father and husband, as before) or upon superiority separated from property by means of a trust-feu, or by means of a reconveyance of the property, in manner before mentioned, (excepting the case of an apparent heir and eldest son, as before) or upon lands contained in any entail, excepting the right of the heir of entail in possession, as before, shall be turned off the said roll, and a mode prescribed for doing thereof: BE IT THEREFORE ENACTED, That it shall be lawful for any freeholder standing upon the roll of any county or stewartry in Scotland, to object to the title of any such person so standing on the said roll, and for that purpose either to lodge his objection, in the usual form, in the hands of the Sheriff, or Stewart-clerk, two kalendar months before the next Michaelmas meeting which shall happen immediately subsequent to the passing of this act, or to present the same at the first meeting for election in the said county or stewartry, or without lodging any such objection, to apply at any time before the

which shall be in the year of our Lord 1800 by summary petition to the Court of Session, who shall grant a warrant for summoning such persons, upon thirty days notice, to answer, and shall proceed in a summary manner to hear and determine upon such complaints; and, upon finding the title of the person complained of to be such as is declared insufficient by this act, shall order him to be struck off the roll.

10. PROVIDED ALWAYS, That no freeholder standing upon the roll last made up, in any county or stewartry upon the said

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and not objected to or complained of as aforesaid, shall thereafter be struck off or left out of the roll, excepting upon a sufficient objection arising from the alteration of that right or title in respect of which he was inrolled, sustained by the other freeholders standing upon the said roll, or upon his refusing to take the oath after mentioned.

11. AND BE IT FURTHER ENACTED, That no person hereafter shall be entitled to be inrolled in the roll of Freeholders of any county or stewartry, or to vote in the election of a Member of Parliament, upon any right of lands which excludes the whole issue of his body from succeeding to him.

12. AND BE IT FURTHER ENACTED, That every Freeholder of any shire or stewartry in Scotland who shall, at any Michaelmas meeting for adjusting the rolls of Freeholders, or at any meeting for the election of a Member to serve in Parliament, claim a vote in the election of preses or clerk of the meeting, or in adjusting the roll, or in the election of the Member, shall, upon the request of any Freeholder present, and standing on the roll, instead of the oath appointed to be taken by an act made in the 7th year of his late Majesty, Geo. II. entitled, &c. before he proceed to vote in the choice of preses or clerk, or in any question concerning the adjustment of the roll of electors, or in the election of a Member to serve for the county or stewartry, take and subscribe, upon a roll of parchment, to be provided and kept by the steward or sheriff-clerk for that purpose, the oath following, which the commissioner for the county last elected, or, in his absence, the sheriff or steward's clerk, before the electing of a preses, and the preses, after his election, are hereby required and empowered respectively to administer: That is to say,

The Oath.

“ I *A B*, do, in the presence of God, and as I shall answer to
 “ God at the great day of judgment, declare and swear, That the
 “ lands and estate of for which I claim to vote, do
 “ really and truly belong to me, (in property, superiority, or life-
 “ or to my wife or her heirs, as the case shall be,) and that I am in
 “ the real and actual possession of the same; and do not hold the
 “ said lands, or the qualification to vote thereon, in trust for any
 “ person whatever; and, that neither am I, nor, to the best of my
 “ knowledge or belief, is any person in my name, or on my account,
 “ bound by word or writing, or in any manner of way, directly or
 “ indirectly, by private understanding, obligation of conscience, or
 “ otherways, to reinstate the person from whom my said right is de-
 “ rived, or his heirs, or to convey the said right or benefit of the
 “ same to him or them, or to any other person; and that I neither
 “ have given nor intend to give any promise, bond, obligation, or
 “ other security or writing whatever, which may tend to lessen my
 “ interest in the said lands, directly or indirectly. AND I DO FUR-
 “ THER solemnly swear, that my right to and interest in the said
 “ lands and estate, such as they appear on the face of my titles, are
 “ not collusive nor nominal, nor fictitious, nor created in order to
 “ evade this or any other of the laws regarding elections; that the
 “ said estate is not vested or reserved in me by any device for creat-
 “ ing votes, contrary to the intendment of the laws, or to evade
 “ the same, but is honestly, *bona fide*, and truly a substantial and
 “ real estate, and independent qualification in me, without equivo-
 “ cation, mental evasion of any kind, or secret reservation what-
 “ ever.”

13. AND BE IT ENACTED, That if any freeholder standing on
 the roll as aforesaid, shall refuse, when required to take and subscribe
 such oath, his vote shall not be admitted or allowed, and his name
 shall forthwith be erased out of the roll of freeholders; and in case
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any person shall presume wilfully or falsely to swear and subscribe the said oath, and shall be thereof lawfully convicted, he shall incur the pains and punishments of perjury, and may be prosecuted for the same, at the instance of any person whatever, according to the forms used in Scotland; and further, shall be declared for ever incapable of voting as a freeholder, or being elected as member of Parliament for any county or stewartry in Scotland.

14. AND BE IT FURTHER ENACTED, That if any person shall be chosen a member to serve in Parliament for any county or stewartry within Scotland, without being present at the meeting of election, he shall, before taking his seat in Parliament, be obliged, at the requisition of any freeholder in said county or stewartry, to take and subscribe the oath before recited, before the Lord High Steward of his Majesty's household, or any person or persons authorised by him for that purpose, and which he or they are hereby empowered and required to administer; and if after being lawfully required, he shall neglect or refuse to take and subscribe such oath, his election shall be void.

N. B. In addition to these clauses, some gentlemen propose, *1mo*, That the qualification should be lowered from 400 l. Scots of valuation to 200 l. Scots, which will only bring the valuation to be nearly on a footing with the old extent.

2do, That the member elected should have an estate of l. *per annum* of real rent in the county, suppose 500 l. *per annum*.

Clause proposed by Mr Smyth of Methven, to be inserted betwixt Sections 6th and 7th of the Heads of a Bill prepared by a Committee of Landholders in 1782, approved of by a Majority of the Counties, and by the General Meeting of Delegates, February 24. 1783.

7. AND WHEREAS the said Act 1681, in so far as it enacts, that where the old extent appears not, no person shall be intitled to vote, but those who have lands vested in them, in manner therein specified, liable in public burdens for 400 l. Scots of valued rent, does evidently tend to restrict the right of voting in the election of a Member of Parliament to a much smaller number than were fairly intitled thereto, inasmuch as a forty shilling land of old extent does not, on a medium, exceed 400 l. Scots of valued rent. THEREFORE BE IT ENACTED, That where the old extent is not ascertained in manner required by law, 100 l. Scots of valued rent shall be considered as equivalent to a forty shilling land of old extent, and the person who has lands to that amount, vested in him in manner required by law, shall be intitled to be inrolled in the roll of Freeholders, and to elect or be elected in the same manner, as if these lands were properly instructed to be a forty shilling land of old extent.

Clause proposed by Mr. Knight of Wilton, to be inserted
between Sections 6th and 7th of the Head of a Bill pro-
posed by a Committee of Landholders in 1782, approved
of by a Majority of the Committee, and by the General
Meeting of Delegates, February 24. 1783.

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as equivalent to a forty shilling land of old extent, and the person
who has lands to that amount, when in this manner required by
law, shall be intitled to be intitled in the roll of Freeholders, and to
elect or be elected in the same manner, as if these lands were pro-
perly intitled to be a forty shilling land of old extent.

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